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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/682,443	10/09/2003	William F. Getgey	GET / 07	9799

26875 7590 04/19/2007  
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CINCINNATI, OH 45202

EXAMINER
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RUNNING, RACHEL A

ART UNIT	PAPER NUMBER
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3732

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/19/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

## Office Action Summary

Application No.

10/682,443

Applicant(s)

GETGEY ET AL.

Examiner

Rachel A. Running

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 March 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12, 14-21, 23-26, 32-36, 39-42 and 48-50 is/are pending in the application.
- 4a) Of the above claim(s) 27-31 and 43-47 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12, 14-21, 23-26, 32-36, 39-42 and 48-50 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 4-6, 8, 9, 32, 36, 39, 48, and 49 are rejected under 35 U.S.C. 102(b) as being anticipated by Murayama (US Re. 35,712).

Murayama discloses an elongated body (14) having opposed first and second ends, a hollow portion, a power supply (18), a replaceable flosser head (12) having a base removably connected to the first end of the elongated body (see Figures 1A and 1B; column 5, lines 1-15). The tines extend generally perpendicularly relative to the longitudinal axis (see Figure 1B). A yoke extending from the base of the flosser head having a pair of spaced tines (31) between which a piece of flexible floss (32) is held (see Figures 1A and 1B). The power supply includes a motor (18) and a battery (20), wherein a pin (28) extends upwardly from the first end and is coupled to the motor (see Figure 2A; column 5, lines 10-15). The motor oscillates at a frequency of 2000 to 3000 cycles per minute (column 3, lines 25-35). The flosser head comprises a base that has a receptacle to receive the pin (see Figures 3A and 3B). The pin defines a vertical axis about which the flosser head oscillates, but the piece of floss does not pass through (see Figure 2A). A locking mechanism (34) is used for removably securing the flossing head to the body (column 6, lines 35-40). The drive mechanism for the motor is located

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within the handle portion. The method of flossing teeth is understood that Murayama would have had to activate the motorized flosser and press the length of floss material between two teeth to floss the user's teeth.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2, 12, 14-19, 21, 23-25, 33, 40-42, and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murayama in view of Carter (US 5,865,195).

Murayama discloses the claimed invention except for the flosser head having a flexible toothpaste holder with a generally truncated conical shape.

Carter teaches a dental device with a flexible toothpaste holder (50) located at the head of the device with a generally truncated conical shape that is made from plastic (see Figure 3; column 4, lines 15-20). It would have been obvious to one having ordinary skill in the art to modify the dental flosser of Murayama with a flexible toothpaste holder located at the head of the device as taught by Carter to provide an increased resistance to tooth decay.

5. Claims 3, 7, 20, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murayama in view of Carter as applied to claims 1, 12 and 21 above, and further in view of Ali et al (US 5,799,674).

The combination of Murayama and Carter disclose the claimed invention except for a bite pad secured to the first end of the body.

Ali et al. teach a flossing device with a bite pad (62) secured to the first end of the body (see Figure 1; column 3, lines 30-35). It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the flossing device of Murayama and Carter with a bite pad as taught by Ali et al. in order to reduce movement of the shaft when the shaft is inserted into the mouth.

6. Claims 10, 11, 34, and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murayama.

Murayama discloses the claimed invention except for the flosser head oscillating through an arch of between 30 and 75 degrees and approximately 60 degrees. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the head oscillating through an arc of 60 degrees, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. In re Aller, 105 USPQ 233.

### ***Response to Arguments***

7. Applicant's arguments filed March 3, 2007 have been considered but are moot in view of the new ground(s) of rejection.

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rachel A. Running whose telephone number is (571) 272-1917. The examiner can normally be reached on Monday-Friday 7:00 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cris Rodriguez can be reached on (571) 272-4964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Todd E. Manahan  
Primary Examiner

Rachel A. Running  
Examiner  
Art Unit 3732

